

Introduced by Senator Corbett

(Coauthors: Assembly Members Jeffries and Portantino)

February 18, 2011

An act to amend Sections 6206.7, 6208, 6215.4, and 6215.7 of, and to add Sections 6206.1, 6208.1, 6208.2, 6215.25, 6215.71, and 6215.72 to, the Government Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 636, as introduced, Corbett. Personal information: Internet disclosure prohibition.

Existing law authorizes victims of domestic violence or stalking and reproductive health care providers, employees, and volunteers, as defined, to complete an application to be approved by the Secretary of State for the purposes of enabling state and local agencies to respond to requests for public records without disclosing a program participant's residence address contained in any public record. Existing law requires any records or documents pertaining to a program participant be retained by the secretary and held confidential for a period of 3 years after termination of certification and then destroyed, except for change of name records, which shall be retained permanently.

This bill would specify that the records or documents retained by the secretary are confidential and shall not be disclosed pursuant to the California Public Records Act, and would make conforming changes.

This bill would also require the secretary to develop, and provide to a program participant upon certification of the participant's application, a written form that the program participant may submit to an entity, as defined, that operates an Internet search engine or any other form of a public Internet-based search database, for purposes of preventing the disclosure of the participant's personal information by the entity on the

search engine or database, including, but not limited to, the participant's home address or telephone number.

This bill would require an entity that operates an Internet search engine or any other form of a public Internet-based search database, and that receives the program participant opt-out form to review any Internet Web site that is owned, operated, or maintained by the entity to locate and remove, within 2 business days, any personal information of the identified participant from the publicly accessible areas of the Internet Web site, as specified. The bill would also prohibit an entity from soliciting, selling, or trading on the Internet specified information of a program participant or a family member of a program participant, as specified. Violation of these provisions would be subject to specified civil penalties.

The bill would prohibit a person from maliciously, and with the intent to obstruct justice or the due administration of the laws, or with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence, posting on an Internet Web site the home address, the telephone number, or personal identifying information of a program participant or the program participant's family members who are participating in the program. Violations of these provisions would be a crime, punishable as specified. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6206.1 is added to the Government Code,
- 2 to read:
- 3 6206.1. Except as provided in Section 6208, all records or
- 4 documents pertaining to a program participant are confidential and
- 5 shall not be subject to disclosure pursuant to the California Public
- 6 Records Act (Chapter 3.5 (commencing with Section 6250)).

1 SEC. 2. Section 6206.7 of the Government Code is amended
2 to read:

3 6206.7. (a) A program participant may withdraw from program
4 participation by submitting to the address confidentiality program
5 manager written notification of withdrawal and his or her current
6 identification card. Certification shall be terminated on the date
7 of receipt of this notification.

8 (b) The address confidentiality program manager may terminate
9 a program participant's certification and invalidate his or her
10 authorization card for any of the following reasons:

11 (1) The program participant's certification term has expired and
12 certification renewal has not been completed.

13 (2) The address confidentiality program manager has determined
14 that false information was used in the application process or that
15 participation in the program is being used as a subterfuge to avoid
16 detection of illegal or criminal activity or apprehension by law
17 enforcement.

18 (3) The program participant no longer resides at the residential
19 address listed on the application, and has not provided at least
20 seven days' prior notice in writing of a change in address.

21 (4) A service of process document or mail forwarded to the
22 program participant by the address confidentiality program
23 manager is returned as nondeliverable.

24 (5) The program participant obtains a legal name change and
25 fails to notify the Secretary of State within seven days.

26 (c) If termination is a result of paragraph (1), (3), (4), or (5) of
27 subdivision (b), the address confidentiality program manager shall
28 send written notification of the intended termination to the program
29 participant. The program participant shall have five business days
30 in which to appeal the termination under procedures developed by
31 the Secretary of State.

32 (d) The address confidentiality program manager shall notify
33 in writing the county elections official and authorized personnel
34 of the appropriate county clerk's office, county recording office,
35 and department of health of the program participant's certification
36 withdrawal, invalidation, expiration, or termination.

37 (e) Upon receipt of this termination notification, authorized
38 personnel shall transmit to the address confidentiality program
39 manager all appropriate administrative records pertaining to the
40 program participant and the record transmitting agency is no longer

1 responsible for maintaining the confidentiality of a terminated
2 program participant's record.

3 ~~(f) Following termination of program participant certification~~
4 ~~as a result of subdivision (b), the address confidentiality program~~
5 ~~manager may disclose information contained in the participant's~~
6 ~~application.~~

7 SEC. 3. Section 6208 of the Government Code is amended to
8 read:

9 6208. The Secretary of State may not make a program
10 participant's address, other than the address designated by the
11 Secretary of State, or a program participant's name change
12 available for inspection or copying, except under any of the
13 following circumstances:

14 (a) If requested by a law enforcement agency, to the law
15 enforcement agency.

16 (b) If directed by a court order, to a person identified in the
17 order.

18 ~~(c) If certification has been canceled.~~

19 SEC. 4. Section 6208.1 is added to the Government Code, to
20 read:

21 6208.1. (a) The Secretary of State shall develop, and provide
22 to a program participant upon certification of the participant's
23 application, a written form that the program participant may submit
24 to an entity that operates an Internet search engine or any other
25 form of a public Internet-based search database, for purposes of
26 preventing the disclosure of the participant's personal information
27 by the entity on the search engine or database, including, but not
28 limited to, the participant's home address or telephone number. In
29 addition to specifying that the program participant has decided
30 against having his or her personal information disclosed on an
31 Internet search engine or database, the form shall include a
32 narrative description of the requirements imposed by this section.

33 (b) (1) An entity described in subdivision (a), that operates an
34 Internet search engine or any other form of a public Internet-based
35 search database, and that receives the program participant opt-out
36 form described in subdivision (a), shall review any Internet Web
37 site that is owned, operated, or maintained by that entity to locate
38 and remove, within two business days, any personal information
39 of the identified participant from the publicly accessible areas of
40 the Internet Web site. The entity shall have an ongoing

1 responsibility to review any Internet Web site that is owned,
2 operated, or maintained by that entity for the purpose of ensuring
3 that the participant's personal information is not reported to those
4 Internet Web sites.

5 (2) An entity described in subdivision (a), that operates an
6 Internet search engine or any other form of public Internet-based
7 search database, and that receives the program participant opt-out
8 form described in subdivision (a), shall not solicit, sell, or trade
9 on the Internet the home address or telephone number of the
10 program participant or a family member of a program participant
11 who is also participating in the program.

12 (c) An entity that violates subdivision (b) shall be subject to a
13 civil penalty for each violation in the amount of five thousand
14 dollars (\$5,000). An action for a civil penalty under this subdivision
15 may be brought by any public prosecutor in the name of the people
16 of the state and the penalty imposed shall be enforceable as a civil
17 judgment.

18 (d) A program participant whose home address or telephone
19 number is made public as a result of a violation of subdivision (b)
20 may bring an action seeking injunctive or declaratory relief in any
21 court of competent jurisdiction. If a jury or court finds that a
22 violation has occurred, it may grant injunctive or declaratory relief
23 and shall award the program participant court costs and reasonable
24 attorney's fees.

25 (e) Notwithstanding any other provision of law, a program
26 participant whose home address or telephone number is solicited,
27 sold, or traded in violation of subdivision (b) may bring an action
28 in any court of competent jurisdiction. If a jury or court finds that
29 a violation has occurred, it shall award damages to that program
30 participant in an amount up to a maximum of three times the actual
31 damages, but in no case less than four thousand dollars (\$4,000).

32 (f) Nothing in this section shall preclude prosecution under any
33 other provision of law.

34 (g) For purposes of this section, the term "entity" shall include
35 a business, a state or local agency, a private entity, or an individual
36 person.

37 SEC. 5. Section 6208.2 is added to the Government Code, to
38 read:

39 6208.2. (a) (1) No person shall maliciously, and with the
40 intent to obstruct justice or the due administration of the laws, or

1 with the intent that another person imminently use that information
2 to commit a crime involving violence or a threat of violence, post
3 on an Internet Web site the home address, the telephone number,
4 or personal identifying information of a program participant or the
5 program participant's family members who are participating in
6 the program.

7 (2) A violation of this subdivision is a misdemeanor punishable
8 by a fine of up to two thousand five hundred dollars (\$2,500), or
9 imprisonment of up to six months in a county jail, or by both that
10 fine and imprisonment.

11 (3) A violation of this subdivision that leads to the bodily injury
12 of the program participant, or of any of the program participant's
13 family members who are participating in the program, is a
14 misdemeanor punishable by a fine of up to five thousand dollars
15 (\$5,000), or imprisonment of up to one year in a county jail, or by
16 both that fine and imprisonment.

17 (b) Nothing in this section shall preclude prosecution under any
18 other provision of law.

19 SEC. 6. Section 6215.25 is added to the Government Code, to
20 read:

21 6215.25. Subject to Section 6215.7, all records or documents
22 pertaining to a program participant are confidential and shall not
23 be subject to disclosure pursuant to the California Public Records
24 Act (Chapter 3.5 (commencing with Section 6250)).

25 SEC. 7. Section 6215.4 of the Government Code is amended
26 to read:

27 6215.4. (a) A program participant may withdraw from program
28 participation by submitting to the address confidentiality program
29 manager written notification of withdrawal and his or her current
30 identification card. Certification shall be terminated on the date
31 of receipt of this notification.

32 (b) The address confidentiality program manager may terminate
33 a program participant's certification and invalidate his or her
34 authorization card for any of the following reasons:

35 (1) The program participant's certification term has expired and
36 certification renewal has not been completed.

37 (2) The address confidentiality program manager has determined
38 that false information was used in the application process or that
39 participation in the program is being used as a subterfuge to avoid

1 detection of illegal or criminal activity or apprehension by law
2 enforcement.

3 (3) The program participant no longer resides at the residential
4 address listed on the application, and has not provided at least
5 seven days' prior notice in writing of a change in address.

6 (4) A service of process document or mail forwarded to the
7 program participant by the address confidentiality program
8 manager is returned as nondeliverable.

9 (5) The program participant who is a provider, employee, or
10 volunteer fails to disclose a change in employment, or termination
11 as volunteer or provider.

12 (c) If termination is a result of paragraph (1), (3), (4), or (5) of
13 subdivision (b), the address confidentiality program manager shall
14 send written notification of the intended termination to the program
15 participant. The program participant shall have five business days
16 in which to appeal the termination under procedures developed by
17 the Secretary of State.

18 (d) The address confidentiality program manager shall notify
19 in writing the county elections official and authorized personnel
20 of the appropriate county clerk's office, and county recording
21 office of the program participant's certification withdrawal,
22 invalidation, expiration, or termination.

23 (e) Upon receipt of this termination notification, authorized
24 personnel shall transmit to the address confidentiality program
25 manager all appropriate administrative records pertaining to the
26 program participant and the record transmitting agency is no longer
27 responsible for maintaining the confidentiality of a terminated
28 program participant's record.

29 ~~(f) Following termination of program participant certification~~
30 ~~as a result of paragraph (2) of subdivision (b), the address~~
31 ~~confidentiality program manager may disclose information~~
32 ~~contained in the participant's application.~~

33 SEC. 8. Section 6215.7 of the Government Code is amended
34 to read:

35 6215.7. The Secretary of State may not make a program
36 participant's address, other than the address designated by the
37 Secretary of State, available for inspection or copying, except
38 under any of the following circumstances:

39 (a) If requested by a law enforcement agency, to the law
40 enforcement agency.

1 (b) If directed by a court order, to a person identified in the
2 order.

3 ~~(c) If certification has been canceled.~~

4 SEC. 9. Section 6215.71 is added to the Government Code, to
5 read:

6 6215.71. (a) The Secretary of State shall develop, and provide
7 to a program participant upon certification of the participant's
8 application, a written form that the program participant may submit
9 to an entity that operates an Internet search engine or any other
10 form of a public Internet-based search database, for purposes of
11 preventing the disclosure of the participant's personal information
12 by the entity on the search engine or database, including, but not
13 limited to, the participant's home address or telephone number. In
14 addition to specifying that the program participant has opted against
15 having his or her personal information disclosed on an Internet
16 search engine or database, the form shall include a narrative
17 description of the requirements imposed by this section.

18 (b) (1) An entity described in subdivision (a), that operates an
19 Internet search engine or any other form of a public Internet-based
20 search database, and that receives the program participant opt-out
21 form described in subdivision (a), shall review any Internet Web
22 site that is owned, operated, or maintained by that entity to locate
23 and remove, within two business days, any personal information
24 of the identified participant from the publicly accessible areas of
25 the Internet Web site. The entity shall have an ongoing
26 responsibility to review any Internet Web site that is owned,
27 operated, or maintained by that entity for the purpose of ensuring
28 that the participant's personal information is not reported to those
29 Internet Web sites.

30 (2) An entity described in subdivision (a), that operates an
31 Internet search engine or any other form of public Internet-based
32 search database, and that receives the program participant opt-out
33 form described in subdivision (a), shall not solicit, sell, or trade
34 on the Internet the home address or telephone number of the
35 program participant or a family member of a program participant
36 who is also participating in the program.

37 (c) An entity that violates subdivision (b) shall be subject to a
38 civil penalty for each violation in the amount of five thousand
39 dollars (\$5,000). An action for a civil penalty under this subdivision
40 may be brought by any public prosecutor in the name of the people

1 of the state and the penalty imposed shall be enforceable as a civil
2 judgment.

3 (d) A program participant whose home address or telephone
4 number is made public as a result of a violation of subdivision (b)
5 may bring an action seeking injunctive or declaratory relief in any
6 court of competent jurisdiction. If a jury or court finds that a
7 violation has occurred, it may grant injunctive or declaratory relief
8 and shall award the program participant court costs and reasonable
9 attorney's fees.

10 (e) Notwithstanding any other provision of law, a program
11 participant whose home address or telephone number is solicited,
12 sold, or traded in violation of subdivision (b) may bring an action
13 in any court of competent jurisdiction. If a jury or court finds that
14 a violation has occurred, it shall award damages to that program
15 participant in an amount up to a maximum of three times the actual
16 damages, but in no case less than four thousand dollars (\$4,000).

17 (f) Nothing in this section shall preclude prosecution under any
18 other provision of law.

19 (g) For purposes of this section, the term "entity" shall include
20 a business, a state or local agency, a private entity, or an individual
21 person.

22 SEC. 10. Section 6215.72 is added to the Government Code,
23 to read:

24 6215.72. (a) (1) No person shall maliciously, and with the
25 intent to obstruct justice or the due administration of the laws, or
26 with the intent that another person imminently use that information
27 to commit a crime involving violence or a threat of violence, post
28 on an Internet Web site the home address, the telephone number,
29 or personal identifying information of a program participant or the
30 program participant's family members who are participating in
31 the program.

32 (2) A violation of this subdivision is a misdemeanor punishable
33 by a fine of up to two thousand five hundred dollars (\$2,500), or
34 imprisonment of up to six months in a county jail, or by both that
35 fine and imprisonment.

36 (3) A violation of this subdivision that leads to the bodily injury
37 of the program participant, or of any of the program participant's
38 family members who are participating in the program, is a
39 misdemeanor punishable by a fine of up to five thousand dollars

1 (\$5,000), or imprisonment of up to one year in a county jail, or by
2 both that fine and imprisonment.

3 (b) Nothing in this section shall preclude prosecution under any
4 other provision of law.

5 SEC. 11. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.